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The obligation to extradite or prosecute (*aut dedere aut judicare*)

Comments and information received from Governments

Addendum

I. Introduction

1. The present report has been prepared pursuant to General Assembly resolution 61/34, in which the Assembly, inter alia, invited Governments to provide to the International Law Commission information on legislation and practice regarding the topic "The obligation to extradite or prosecute (*aut dedere aut judicare*)". The replies received from Governments up to 1 March 2007 have been reproduced in A/CN.4/579. The present addendum contains information submitted by Governments after that date.

II. Comments and information received from Governments

A. International treaties by which a State is bound, containing the obligation to extradite or prosecute (*aut dedere aut judicare*), and reservations made by that State to limit the application of this obligation

Chile

2. Chile submitted a list of multilateral treaties to which it is party: (a) the Convention on Extradition, signed in Montevideo on 26 December 1933, promulgated by supreme decree of the Ministry of Foreign Affairs No. 942 of 6 August 1935, *Diario Oficial*, 19 August 1935, with the following States parties: Argentina, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, United States of America (art. II); and (b) the International Private Law Code (book IV, third title), whose States parties are

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Bolivia, Brazil, Chile, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru and Venezuela (Bolivarian Republic of) (art. 345).

3. Chile also mentioned, in view of their special relevance, two multilateral treaties concerning specific offences to which Chile is party and which deal with the principle in question in their provisions on extradition: (a) the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,[1] adopted and signed by Chile in Vienna on 20 December 1988, promulgated by supreme decree of the Ministry of Foreign Affairs No. 543 of 1990, *Diario Oficial*, 20 August 1990, and (b) the United Nations Convention against Transnational Organized Crime and its Protocols of 15 November 2000 (Palermo Convention),[2] promulgated by supreme decree of the Ministry of Foreign Affairs No. 342 of 20 December 2004, *Diario Oficial*, 16 February 2005.

4. Chile also submitted a list of bilateral treaties: (a) the Treaty on Extradition with Australia, signed in Canberra on 6 October 1993 and promulgated by supreme decree of the Ministry of Foreign Affairs No. 1844 of 27 December 1995, *Diario Oficial*, 20 February 1996 (art. 5, para. 1); (b) the Treaty on Extradition with Bolivia, signed in Santiago on 15 December 1910 and promulgated by decree No. 500 of 8 May 1931, *Diario Oficial*, 26 May 1931 (art. IV); (c) the Treaty on Extradition with Brazil, signed in Rio de Janeiro on 8 November 1935 and promulgated by decree No. 1180 of 18 August 1937, *Diario Oficial*, 30 August 1937 (art. I, para. 1); (d) the Treaty on Extradition with Colombia, signed in Bogota on 16 November 1914 and promulgated by decree No. 1472 of 18 December 1928, *Diario Oficial*, 7 January 1929 (art. IV); (e) the Convention on Extradition with Ecuador, signed in Quito on 10 November 1897 and promulgated on 27 September 1899, *Diario Oficial*, 9 October 1899 (art. VII, para. 2); (f) the Treaty on Extradition with the Republic of Korea, signed in Seoul on 21 November 1994, promulgated by decree No. 1417 of 1 September 1997, *Diario Oficial*, 23 October 1997 (art. 6, para. 2); (g) the Treaty on Extradition and Mutual Legal Assistance in Criminal Matters with Mexico, signed in Mexico City on 2 October 1990 and promulgated by supreme decree of the Ministry of Foreign Affairs No. 1011 of 30 August 1993, *Diario Oficial*, 30 November 1993 (art. 6, para. 2); (h) the Treaty on Extradition and Judicial Assistance in Criminal Matters with Nicaragua, signed in Santiago on 28 December 1993 and promulgated by supreme decree of the Ministry of Foreign Affairs No. 411 of 8 June 2001, *Diario Oficial*, 20 August 2001 (art. 7, para. 2); (i) the Treaty on Extradition with Paraguay, signed in Montevideo on 22 May 1897, *Diario Oficial*, 13 November 1928 (art. VII, para. 2); (j) the Treaty on Extradition with Peru, signed in Lima on 5 November 1932 and promulgated by decree No. 1152 of 11 August 1936, *Diario Oficial*, 27 August 1936 (art. IV); (k) the Treaty on Extradition and Judicial Assistance in Criminal Matters with Spain, signed on 14 April 1992 and promulgated by supreme decree of the Ministry of Foreign Affairs No. 31 of 10 January 1995, *Diario Oficial*, 11 April 1995 (art. 7, para. 2); (l) the Treaty on Extradition with Uruguay, signed in Montevideo on 10 May 1897, *Diario Oficial*, 30 November 1909 (art. 7); and (m) the Treaty on Extradition with Venezuela, signed in Santiago on 2 June 1962 and promulgated by supreme decree

[1] United Nations *Treaty Series*, vol. 1582, No. 27627.

[2] General Assembly resolution 55/25.

of the Ministry of Foreign Affairs No. 355 of 10 May 1965, *Diario Oficial*, 1 June 1965 (art. 3, para. 2).

Ireland

5. In submitting a list of international treaties by which it is bound, containing the obligation to extradite or prosecute, Ireland noted that while every effort had been made to ensure accuracy, the information submitted did not purport to constitute a definitive statement of Irish law. The list was as follows: the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949;[3] the Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949;[4] the Geneva Convention relative to the Treatment of Prisoners of War, 1949;[5] the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;[6] the European Convention on Extradition, 1957;[7] the Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;[8] the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;[9] the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, 1973;[10] the International Convention against the Taking of Hostages, 1979;[11] the Convention on the Physical Protection of Nuclear Material, 1979;[12] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;[13] the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988; the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;[1] the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988;[14] the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988;[14] the Convention on the Safety of United Nations and Associated Personnel, 1994;[15] the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997;[16] the International Convention for the Suppression of Terrorist Bombings, 1997;[17] the Rome Statute of the International Criminal Court, 1998;[18] the International Convention for the Suppression of the Financing of Terrorism, 1999;[19] the Criminal Law Convention

[3] United Nations *Treaty Series*, vol. 75, No. 970.
[4] Ibid., No. 971.
[5] Ibid., No. 972.
[6] Ibid., No. 973.
[7] Council of Europe: *European Treaty Series*, No. 24.
[8] United Nations *Treaty Series*, vol. 860, No. 12325.
[9] Ibid., vol. 974, No. 14118.
[10] Ibid., vol. 1035, No. 15410.
[11] Ibid., vol. 1316, No. 21931.
[12] Ibid., vol. 1456, No. 24631.
[13] Ibid., vol. 1465, No. 24841.
[14] Ibid., vol. 1678, No. 29004.
[15] Ibid., vol. 2051, No. 35457.
[16] See *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).
[17] United Nations *Treaty Series*, vol. 2149, No. 37517.
[18] Ibid., vol. 2187, No. 38544.
[19] Ibid., vol. 2178, No. 38349.

on Corruption, 1999;[20] and the European Convention on the Suppression of Terrorism, 2005.[21]

Lebanon

6. Lebanon submitted a list of relevant treaties as well as legislation giving effect to specific treaties, namely: the agreement on extradition between Lebanon and Yemen; the agreement on extradition and the exchange of judicial documents between Lebanon and Turkey; the law of 13 March 1964 on mutual extradition between Lebanon and Kuwait; the law of 17 November 1964 on extradition between Lebanon and Belgium; law No. 38/68 of 30 December 1968, concerning the agreement on the execution of judgements and the extradition of offenders between Lebanon and Tunisia; the law implemented by decree No. 3257 of 17 May 1972, relating to the judicial agreement between Lebanon and Italy; law No. 630 of 23 April 1997, concerning the judicial agreement between Lebanon and the Syrian Arab Republic; law No. 693 of 5 November 1998, concerning the judicial agreement with Egypt; law No. 467 of 12 December 2002, relating to the agreement on the transfer of convicted persons between Lebanon and Bulgaria; law No. 468 of 12 December 2002, on the agreement on extradition between Lebanon and Bulgaria; law No. 469 of 12 December 2002, concerning the agreement on judicial cooperation in criminal matters between Lebanon and Bulgaria; and law No. 470 of 12 December 2002, on the agreement on judicial cooperation in civil matters between Lebanon and Bulgaria.

Mexico

7. Mexico submitted a list of multilateral treaties on substantive matters, as follows: (a) war crimes and crimes against humanity, namely, the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949;[3] the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949;[4] the Geneva Convention relative to the Treatment of Prisoners of War, 1949;[5] the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;[6] and the Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of International Armed Conflicts, 1977;[22] (b) prohibition of genocide, namely, the Convention on the Prevention and Punishment of the Crime of Genocide, 1948;[23] (c) illegal use of weapons, namely, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, 1992;[24] (d) apartheid, namely, the International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973;[25] (e) slavery and slavery-like crimes, namely, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and Final Protocol, 1950;[26] the International Convention for the

[20] Council of Europe, *European Treaty Series*, No. 173.
[21] United Nations *Treaty Series*, vol. 1137, No. 17828.
[22] Ibid., vol. 1125, No. 17512.
[23] Ibid., vol. 78, No. 1021.
[24] Ibid., vol. 1974, No. 33757.
[25] Ibid., vol. 1015, No. 14861.
[26] Ibid., vol. 96, No. 1342.

Suppression of the Traffic in Women and Children, 1921;[27] the International Convention for the Suppression of the White Slave Traffic, 1910;[28] the International Agreement for the Suppression of the White Slave Traffic, 1904, amended by the Protocol, 1949;[29] and the Slavery Convention, 1926;[30] (f) prohibition of Torture, namely, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;[13] and the Inter-American Convention to Prevent and Punish Torture, 1985; (g) piracy, namely, the Convention on the High Seas, 1958;[31] and the United Nations Convention on the Law of the Sea, 1982;[32] (h) hijacking and related crimes, namely the Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963;[33] the Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;[8] the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;[9] (i) crimes against the safety of international maritime navigation, namely, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988;[14] (j) use of force against internationally protected persons, namely, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973;[10] and the Organization of American States Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, 1971; (k) taking of civilian hostages, namely, the International Convention against the Taking of Hostages, 1979;[11] (l) crimes against health (narcotic drugs, drugs and psychotropic substances), namely the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, 1936;[34] the Single Convention on Narcotic Drugs, 1961;[35] and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;[1] (m) international traffic in obscene material, namely, the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications, 12 September 1923;[36] (n) protection of the environment, namely, the International Convention for the Prevention of Pollution from Ships, 1973;[37] (o) theft of nuclear material, namely the Convention on the Physical Protection of Nuclear Material, 1979;[12] and (p) prohibition of counterfeiting, namely, the International Convention for the Suppression of Counterfeiting Currency, 1929.[38]

8. Concerning trial procedures, Mexico noted that it was party to the Convention on Extradition, Montevideo, 1933.

9. In signing the Convention on Extradition, the Government of Mexico formulated the following reservation:

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[27] League of Nations, *Treaty Series*, vol. 9, No. 269.
[28] Ibid., vol. 1, No. 11.
[29] United Nations *Treaty Series*, vol. 92, No. 1257.
[30] League of Nations, *Treaty Series*, vol. 60, No. 1414.
[31] United Nations *Treaty Series*, vol. 450, No. 6465.
[32] Ibid., vol. 1833, No. 31363.
[33] Ibid., vol. 1969, No. 10106.
[34] League of Nations, *Treaty Series*, vol. 198, No. 4648.
[35] United Nations *Treaty Series*, vol. 520, No. 7515.
[36] Ibid., vol. 46, No. 709.
[37] Ibid., vol. 1340, No. 22484.
[38] League of Nations, *Treaty Series*, vol. 112, No. 2623.

> Mexico is signing the Convention on Extradition but, with respect to article 3, paragraph (f), wishes to state that its domestic legislation does not recognize offences against religion. It will not sign the optional clause of this Convention.

10. In acceding to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the Government of Mexico formulated the following reservation:

> Mexico's accession to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 and to its Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988, is on the understanding that in matters relating to extradition, both article 11 of the Convention and article 3 of its Protocol will be applied in the Republic of Mexico subject to the modalities and procedures laid down in the applicable provisions of national law.

11. The reservations entered by Mexico do not affect the provisions setting out the obligation to prosecute or extradite in the multilateral treaties to which it is party.

12. Mexico also has bilateral treaties on extradition with the following countries: Australia, signed on 22 June 1990 and which entered into force on 27 March 1991; Bahamas, signed on 7 September 1886 and which entered into force on 15 February 1889; Belgium, signed on 22 September 1938 and which entered into force on 13 November 1939; Belize, signed on 5 July 1989 and which entered into force on 29 August 1988; Brazil, signed on 23 March 1938 and which entered into force on 28 December 1933, as well as an Additional Protocol, which was signed on 18 September 1935 and which entered into force on 23 March 1938; Canada, signed on 16 March 1990 and which entered into force on 21 October 1990; Chile, signed on 2 October 1990 and which entered into force on 30 October 1991; Colombia, signed on 12 June 1928 and which entered into force on 1 July 1937; Costa Rica, signed on 13 October 1989 and which entered into force on 24 March 1995; Cuba, signed on 25 May 1925 and which entered into force on 17 May 1930; El Salvador, signed on 21 May 1997 and which entered into force on 21 January 1998; France, signed on 27 January 1994 and which entered into force on 1 March 1995; Greece, signed on 25 October 1999 and which entered into force on 29 December 2004; Guatemala, signed on 17 March 1997 and which entered into force on 29 April 2005; Italy, signed on 22 May 1899 and which entered into force on 12 October 1899; Nicaragua, signed on 13 February 1993 and which entered into force on 18 June 1998; Netherlands, signed on 16 December 1907 and which entered into force on 2 July 1909; Panama, signed on 23 October 1928 and which entered into force on 4 May 1938; Peru, signed on 2 May 2000 and which entered into force on 10 April 2001; Portugal, signed on 20 October 1998 and which entered into force on 1 January 2000; Republic of Korea, signed on 29 November 1996 and which entered into force on 27 December 1997; Spain, signed on 21 November 1978 and which entered into force on 1 June 1980, as well as an Additional Protocol, which was signed on 23 June 1995 and which entered into force on 1 September 1996, and Second Protocol, which was signed on 6 December 1999 and which entered into force on 1 April 2001; United Kingdom of Great Britain and Northern Ireland, signed on 7 September 1886 and which entered into force on 15 February 1889; United States, through an exchange of notes dated 4 May 1978 and which entered into force on 25 January 1980 as well as a Protocol, signed on 13 November 1997

and which entered into force on 21 May 2001; Uruguay, signed on 30 October 1996 and which entered into force on 24 March 2005; and Venezuela (Bolivarian Republic of), signed on 15 April 1998 and which entered into force on 24 November 2005.

Slovenia

13. Slovenia submitted a list of international treaties containing the obligation to extradite or prosecute, by which Slovenia is bound, namely: the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949;[3] the Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949;[4] the Geneva Convention relative to the Treatment of Prisoners of War, 1949;[5] the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;[6] the European Convention on Extradition, 1957;[7] the Single Convention on Narcotic Drugs, 1961;[35] the Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;[8] the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;[9] the Convention on Psychotropic Substances, 1971;[39] the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, 1973;[10] the International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973;[25] the Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of International Armed Conflicts, 1977;[22] the European Convention on the Suppression of Terrorism, 1977;[21] the International Convention against the Taking of Hostages, 1979;[11] the Convention on the Physical Protection of Nuclear Material, 1980;[12] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;[13] the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988;[14] and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.[1]

14. Slovenia has not made any reservations to the above-mentioned conventions limiting their application, including regarding the principle *aut dedere aut judicare*.

15. In addition to the above-mentioned multilateral conventions, Slovenia has also concluded several bilateral extradition agreements with different countries that include the principle *aut dedere aut judicare*.

Sweden

16. The principle of *aut dedere aut judicare* is established in many international treaties. Sweden ratified several of those treaties and is therefore bound by the principle in relation to the States parties to the treaties concerned. The principle is not subject to any specific provision in Swedish legislation on extradition or surrender (in pursuit of a European arrest warrant) or in any other piece of legislation. However, the principle is manifested through Swedish legislation on (extraterritorial) jurisdiction, extradition in general and the conditions for the law enforcement agencies to initiate a preliminary investigation and for the prosecutors to institute prosecution, if an offence was committed according to Swedish criminal law.

[39] United Nations *Treaty Series*, vol. 1019, No. 14956.

17. Sweden is bound by a very large number of treaties containing the principle. Many of those treaties originate from the United Nations, for example, the International Convention for the Suppression of Terrorist Bombings;[17] and the International Convention for the Suppression of the Financing of Terrorism.[19]

18. The basic provisions to meet the requirements of the principle are found in chapter 2, section 2, of the Swedish Penal Code.[40] According to the relevant provisions, Swedish courts always have jurisdiction when the crime has been committed by a Swedish citizen or an alien domiciled in Sweden (para. 1), by an alien not domiciled in Sweden who, after having committed the crime, has become a Swedish citizen or has acquired domicile in Sweden or who is a Danish, Finnish, Icelandic or Norwegian citizen and is present in Sweden (para. 2) or by any other alien who is present in Sweden, and when under Swedish law the crime can result in imprisonment for more than six months (para. 3). Those provisions, however, apply only when the act is subject to criminal responsibility under the law of the place where it was committed. Thus, in practice, Sweden may always prosecute when the alleged offender is, inter alia, a Swedish citizen or resident or at least present on Swedish territory.

19. Since the generic provisions in the Penal Code are applicable to any international obligation by which Sweden is bound, Sweden saw no need to list each international treaty containing the principle of *aut dedere aut judicare* in its submission.

Tunisia

20. Article 32 of the Tunisian Constitution recognizes the principle of the precedence of international treaties over laws. International agreements ratified in accordance with constitutional procedures are considered to take precedence over laws and take effect automatically aside from certain exceptions pursuant to the application of the principle of legality of crimes and punishment. Such agreements may be bilateral or multilateral.

21. Tunisia has concluded numerous bilateral agreements relating to judicial cooperation, most of which provide explicitly for the obligation to "extradite or prosecute". Those agreements are either specifically about extradition or general in nature, with some articles touching on extradition. They include: the agreement with the Libyan Arab Jamahiriya on judicial notices, letters rogatory, enforcement of judgements and extradition (art. 20, para. 2); the agreement with Algeria concerning mutual assistance and judicial cooperation (art. 27, para. 2); the agreement with Lebanon concerning judicial cooperation, enforcement of judgements and extradition (art. 22, para. 2); the agreement with Morocco concerning judicial cooperation, enforcement of judgements and extradition (art. 35, para. 2); the agreement with Jordan concerning judicial cooperation, enforcement of judgements and extradition (art. 20, para. 1); the agreement with Mauritania concerning judicial cooperation (art. 29, para. 2); the agreement with the United Arab Emirates on judicial cooperation in civil and criminal matters (art. 27, para. 2); the agreement with Egypt on legal and judicial cooperation in civil, commercial and personal status and criminal matters (art. 37, para. 2); the agreement with Kuwait on legal

[40] The Extradition for Criminal Offences, the Surrender from Sweden according to the European Arrest Warrant Act and extracts of the Swedish Penal Code are available for consultation in the Codification Division of the Office of Legal Affairs of the United Nations.

and judicial cooperation in civil, criminal and personal status matters (art. 38, para. 2); the first annexed agreement to the agreement with Kuwait on legal and judicial cooperation in civil, criminal and personal status matters (art. 39 bis); the agreement with the Syrian Arab Republic concerning judicial notices, letters rogatory and enforcement of judgements (art. 26, para. 2); the agreement with Qatar on legal and judicial cooperation (art. 41, para. 2); the agreement with Yemen on judicial cooperation in civil, commercial, criminal and personal status matters (art. 38, para. 2); the agreement with Germany concerning extradition and judicial cooperation in criminal matters (art. 6, para. 2); the agreement with Italy concerning judicial cooperation in civil, commercial and criminal matters, the recognition and enforcement of judgements and arbitral awards and extradition (art. 15, para. 2); the agreement with France concerning judicial cooperation in criminal matters and extradition (art. 23, para. 2, which contains the phrase "when necessary"); the agreement with Bulgaria concerning judicial cooperation in civil and criminal matters (art. 32); the agreement with Czechoslovakia concerning judicial cooperation in civil and criminal matters, recognition and enforcement of judicial rulings and extradition (art. 48); the agreement with Turkey concerning judicial cooperation in criminal matters and extradition (art. 23, which contains the phrase "when necessary"); the agreement with Hungary concerning judicial cooperation in civil and criminal matters, recognition and enforcement of judicial rulings and extradition (art. 47); the agreement with Poland concerning judicial cooperation in civil and criminal matters (arts. 32 and 33); the agreement with Belgium concerning judicial cooperation on criminal matters and extradition (art. 4, para. 2); the agreement with Greece concerning extradition and judicial cooperation in criminal matters (art. 23, para. 2); the agreement with Portugal concerning judicial cooperation in matters of extradition (art. 4); the agreement with Senegal concerning judicial cooperation, enforcement of judgements and extradition (art. 42, para. 2); the agreement with Mali concerning judicial cooperation (art. 38, para. 2); the agreement with Côte d'Ivoire on judicial cooperation (art. 25, para. 2); the agreement with China on judicial cooperation in matters of extradition (art. 5); and the agreement with India on judicial cooperation in matters of extradition (art. 5).

22. Tunisia also observed that all international and United Nations counter-terrorism conventions provide explicitly for the principle of "extradite or prosecute", except for the Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963[13] and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991.[41] Tunisia had ratified all these conventions, except for the Convention for the Suppression of Acts of Nuclear Terrorism,[42] which was still under consideration. In 1988, it also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[41] See S/22393 and Corr.1, annex I; see *Official Records of the Security Council, Forty-sixth year, Supplement for January, February and March 1991*.

[42] General Assembly resolution 52/290, annex.

B. Domestic legal regulations adopted and applied by a State, including constitutional provisions and penal codes of criminal procedures, concerning the obligation to extradite or prosecute

Chile

23. The regulations followed in order to comply with the obligation to extradite or prosecute derive directly from the treaties signed by Chile. The question is not dealt with in national legal or constitutional regulations.

Ireland

24. The mechanisms allowing Ireland to carry out its international treaty obligations to extradite or prosecute were provided for in domestic law by primary and secondary legislation. Typically, an Act of the *Oireachtas* (parliament) will provide the necessary grounds for jurisdiction, on the basis of which prosecution in relation to acts committed outside the State may be pursued.

25. As regards extradition, section 8 of the Extradition Act 1965 allows the Government to transpose its treaty obligations by order into domestic law. Part III of the International Criminal Court Act 2006 provides for the surrender of individuals to the International Criminal Court for the prosecution of offences within the jurisdiction of the Court. Part II of the International War Crimes Tribunal Act 1998 provides for the surrender of individuals where requested by an "international tribunal" (i.e. the tribunal or court established by the United Nations for the prosecution of persons responsible for serious violations of international humanitarian law committed outside the State to be an international tribunal for the purposes of the Act; that the Minister for Justice, Equality and Law Reform, by regulation, declares to be an international tribunal for the purposes of the Act).

26. The Extradition Act 1965, as amended, governs extradition with countries other than member States of the European Union. The obligation to extradite is considered paramount, and recourse to prosecution in Ireland is considered only where extradition of an Irish citizen is not permitted because of the absence of reciprocal arrangements. A decision in relation to the prosecution of a person for any offence in Ireland is a matter for the Director of Public Prosecutions. No extradition requests have been refused on the grounds of Irish nationality.

27. Ireland also transmitted extracts of the following relevant legislation giving effect to treaties by which it is bound: Geneva Conventions Act 1962; Air Navigation and Transport Act 1973; Air Navigation and Transport Act 1975; Extradition (European Convention on the Suppression of Terrorism) Act 1987; Radiological Protection Act 1991; Criminal Justice Act 1994; Criminal Justice (United Nations Convention against Torture) Act 2000; Criminal Justice (Safety of United Nations Workers) Act 2000; Prevention of Corruption (Amendment) Act 2001; Maritime Security Act 2004; Criminal Justice (Terrorist Offences) Act 2005; and International Criminal Court Act 2006.[43]

[43] The extracts are available for consultation in the Codification Division of the Office of Legal Affairs of the United Nations.

Lebanon

28. Lebanon transmitted a list containing the legal texts in force in Lebanon in respect of the question of extradition. The provisions governing extradition are those provided for in articles 30 to 36 of the Lebanese Penal Code and in article 17 of the Lebanese Code of Criminal Procedure. The aforementioned articles of the Lebanese Penal Code contain elements of the response to the request for a definition of the nature of the crimes for which extradition is permitted or for which it is denied. Under article 17 of the Code of Criminal Procedure, the Public Prosecutor at the Court of Cassation provides information on the judicial application of the principle of extradition.[44]

29. A distinction was drawn between cases in which the person whose extradition is requested is a Lebanese national and those in which the person is a foreign national. With regard to Lebanese nationals, in accordance with the principle that "the State does not extradite its own citizens", the person sought is not extradited but rather tried before the Lebanese courts in accordance with the jurisdiction *ratione personae* laid down in article 20 of the Penal Code, which provides for:

> The application of Lebanese law in respect of any Lebanese who, be it as principal, accomplice abettor or accessory, proceeds, outside Lebanese territory, to commit a felony or a misdemeanour punishable under Lebanese law.

30. Consequently, the Lebanese State is bound, in that regard, by the principle *aut dedere aut judicare*. It should be borne in mind, however, that a request for the extradition of a Lebanese national is subject, as far as procedures are concerned, to the very same rules that are followed in respect of requests for the extradition of an alien, which are referred to below.

31. With regard to foreign nationals, the question of their extradition to the requesting State is handled in accordance with the following mechanism:

(a) On the basis of international "wanted" notices issued by the Interpol General Secretariat and the Arab Bureau of Criminal Police, circulars on internationally wanted persons are issued in Lebanon;

(b) Whenever a wanted person, in accordance with the above, is found, he or she is arrested by members of the competent judicial police on the basis of an instruction issued by the Office of the Public Prosecutor at the Court of Cassation;

(c) The State requesting the issuance of a circular on the person in question is notified of the order for his or her arrest and of the need to send a certified copy of his extradition file, if deemed appropriate;

(d) The person whose extradition is requested is held under arrest or released against a residence permit, sufficient safeguards being taken to guarantee that he or she will not flee, such as the issuance of a travel ban, depending on what is decided in that regard by the Public Prosecutor at the Court of Cassation with respect to the duration of arrest or to release. That is done on the basis of the agreements in force, should any exist, and if not, in accordance with the facts of each case, account being taken, in particular, of the principle of reciprocity;

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[44] The aforementioned articles, provided by the Government of Lebanon, are available for consultation at the Codification Division of the Office of Legal Affairs of the United Nations.

(e) Upon the receipt of the extradition file, the person in question shall be interrogated by the Public Prosecutor at the Court of Cassation or whomever is delegated for that purpose and by the Public Defenders at the Court of Cassation. Under article 35 of the Penal Code, the Public Prosecutor at the Court of Cassation may issue a warrant for the arrest of the person whose extradition is requested, after interrogation. The Prosecutor prepares a report on the request for extradition, after ascertaining the validity of the charge and the extent to which the legal conditions for accepting the request are met or not met, whether they be those existing in judicial agreements or treaties, if any exist, or, if not, those based on the rules contained in domestic law and the principle of reciprocity. Thereupon, the entire file, together with the report of the Public Prosecutor at the Court of Cassation, is transmitted to the Minister of Justice. At that point, a decision on the request for extradition is taken pursuant to a decree issued on the basis of a proposal of the Minister of Justice;

(f) Following the issuance of the decree accepting or denying the request for extradition, the State requesting extradition is notified to that effect.

32. In the case of acceptance, the authorities concerned in that State are requested to dispatch a security mission to take custody of the person in question, unless he or she has been arrested on other grounds, in which case extradition only proceeds upon completion of the trial before the Lebanese courts.

33. In the case of denial, if the denial is not due to the offence having been extinguished for some reason or to the inadmissibility of prosecution on any legal ground, hence the possibility of prosecution in respect of the offence still exists, then, in accordance with article 23 of the Lebanese Penal Code:

> Lebanese law applies also to any alien or stateless person resident or present in Lebanon who has proceeded, in a foreign country, whether as principal, accomplice, abettor or accessory, to commit a felony or misdemeanour, if his extradition has not been requested or accepted.

34. Accordingly, an alien, a request for whose extradition is denied owing to the absence of the legal requirements provided for in agreements, or, in the absence of any such agreement, in domestic law, must be arraigned before the Lebanese courts for trial.

35. On the basis of all the foregoing, the Lebanese State is bound by the principle "extradite or prosecute" (*aut dedere aut judicare*) with respect to both Lebanese nationals and any alien or stateless person in Lebanon who has committed criminal acts abroad.

Mexico

36. Article 133 of the Political Constitution of Mexico establishes the hierarchy of legislation in force in Mexico. To that end, it states: this Constitution, the laws of the Congress of the Union that emanate from it and all the treaties that are in accordance with it, concluded and to be concluded by the President of the Republic, with the approval of the Senate, shall be the supreme law of the whole Union. Mexico has therefore incorporated the principle of *aut dedere aut judicare* into its legal system by ratifying the international treaties containing that provision.

37. The obligation underlying this principle of international law is implemented through the following two mechanisms:

(a) Article 4 of the Federal Penal Code establishes the cases in which the Government of Mexico may exercise its jurisdiction in order to ensure that federal crimes committed abroad do not go unpunished:

> Article 4. Crimes committed abroad by a Mexican national against Mexican nationals or foreign nationals, or by a foreign national against Mexican nationals, shall be punishable in the Republic, in accordance with federal laws, provided the following conditions are met:
>
> (i) The accused is inside the Republic;
>
> (ii) A final verdict has not been rendered in the country where the crime was committed; and
>
> (iii) The offence with which the accused is charged is considered a crime both in the country where it was committed and in the Republic;

(b) In addition, the third paragraph of article 119 of the Political Constitution of Mexico provides for the possibility of Mexico conducting extradition proceedings:

> Extradition requests submitted by another State shall be processed by the Federal Executive, with the intervention of a judicial authority under the terms of this Constitution, the international treaties to which Mexico is a party and regulatory laws.

38. For procedural purposes, therefore, during extradition proceedings the Government of Mexico may apply, first, the extradition treaties to which it is a party and, second, the International Extradition Act,[45] which entered into force on 29 December 1975 and is the implementing legislation for article 119 of the Political Constitution.

39. The Government of Mexico conducts all its extradition proceedings on the basis of bilateral treaties or the Extradition Act. To date, it has not received any extradition requests based on a multilateral treaty. If it were to receive such a request, Mexico would conduct extradition proceedings according to the procedural rules established in the aforementioned instruments. The aim is to ensure respect for both procedural safeguards and the human rights of the accused.

40. In that regard, with a view to providing individual safeguards, article 15 of the Political Constitution establishes the following limitations for extradition proceedings:

> Article 15. It shall not be authorized to conclude treaties allowing the extradition of persons accused of political crimes or common criminals who lived as slaves in the country where the crime was committed; neither shall it be authorized to conclude agreements or treaties that alter the safeguards and rights established in this Political Constitution for the individual and the citizen.

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[45] The International Extradition Act provided by the Government of Mexico is available for consultation in the Codification Division of the Office of Legal Affairs of the United Nations.

Slovenia

41. Article 8 of the Constitution of Slovenia stipulates that laws and other regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly.

42. Article 47 determines that no citizen of Slovenia may be extradited or surrendered unless such obligation to extradite or surrender arises from a treaty by which, in accordance with the provisions of the first paragraph of article 3(a) of the Constitution, Slovenia has transferred the exercise of part of its sovereign rights to an international organization.

43. Article 122 of the Penal Code determines that it shall be applicable to any citizen of Slovenia who commits any criminal offence abroad and who has been apprehended in or extradited to Slovenia.

44. Article 123 of the Penal Code of Slovenia determines that it shall also be applicable to any foreign citizen who has, in a foreign country, committed a criminal offence against it or any of its citizens and has been apprehended in Slovenia and is not extradited to a foreign country. In such cases, the court shall not impose a sentence on the perpetrator heavier than the sentence prescribed by the law of the country in which the offence was committed.

45. The request for extradition to Slovenian authorities goes through the channels agreed upon in the relevant multilateral or bilateral treaties. The request for the extradition is forwarded to the investigative judge of the District Court on whose territory the person claimed resides or is in the pre-trial detention. The investigative judge must hear the person claimed and take into account the views expressed by his defence counsel and the prosecutor. He may also perform some other inquiries in the case. After that, the file is sent to a panel of three judges which decides on the question of whether legal conditions for extradition are fulfilled, according to the Criminal Procedure Act.

46. In the event that legal conditions for extradition are fulfilled, the panel issues a decision against which the person has the right to appeal. The court's final decision on the legal grounds for extradition, together with the court file, is sent to the Ministry of Justice and the Minister issues a ruling whereby extradition is granted, rejected or postponed (arts. 521-537 of the Criminal Procedure Act).

47. In cases where legal conditions for extradition are not fulfilled, the panel issues the decision on refusing extradition which is obligatorily reviewed (annulled or modified) by the appeal court.

48. Article 522 of the Criminal Procedure Act stipulates that the preconditions for extradition are: (a) that the person whose extradition is requested is not a citizen of Slovenia; (b) that the act which prompted the request for extradition was not committed in the territory of Slovenia against the Republic or a Slovenian citizen; (c) that the act which prompted the request for extradition is a criminal offence within the meaning of domestic and foreign law alike; (d) that under domestic law, criminal prosecution or the execution of punishment was not barred by statute before the alien was detained or interrogated as the accused; (e) that the alien whose extradition is requested has not been convicted of the same offence by the domestic court or has not been acquitted under a final decision of the domestic court, or

criminal proceedings against him have been suspended by a final decision, or the charge against him has been rejected by a final decision, or that in Slovenia criminal proceedings have not been instituted against the alien for the same offence committed against Slovenia and, in the event that criminal proceedings have been instituted for an offence committed against a citizen of Slovenia, that the indemnification claim of the injured party has been secured; (f) that the identity of the person whose extradition is requested has been established; and (g) that there is sufficient evidence to suspect that the alien whose extradition is requested has committed a criminal offence, or that a finally binding judgement exists thereon.

49. The second paragraph of article 530 of the Criminal Procedure Act determines that the Minister for Justice shall decline extradition of an alien if the latter enjoys the right of asylum in Slovenia, if a political or military offence is involved or if an international treaty with the country demanding the extradition does not exist. He may decline extradition if a criminal offence punishable by up to three years imprisonment is involved, or if a foreign court had imposed a sentence of a prison term of up to one year.

50. The second paragraph of article 521 of the Criminal Procedure Act stipulates that an alien may only be extradited in instances provided for by the international agreements binding on Slovenia.

Sweden

51. Sweden has different regimes regarding extradition, depending on to which country a person is subject to extradition (or surrender): the Extradition for Criminal Offences to Denmark, Finland, Iceland and Norway Act deals with extradition between Nordic countries; the Surrender from Sweden according to the European Arrest Warrant Act provides for conditions for surrender between member States of the European Union; and finally, the Extradition for Criminal Offences Act deals with extradition to all other countries.

52. In all cases a request for extradition (or surrender) is dealt with by the Swedish Prosecution Authority. A prosecutor handles a request and investigates if there are reasons to extradite (or surrender) a person. If the request is from a Nordic country the prosecutor decides if the person should be extradited (with a few exceptions). If a person should be surrendered to a member State of the European Union, the court takes the final decision. In all other cases the decision is delivered by the Swedish Government after the Supreme Court has examined the case and delivered a written opinion whether extradition can be legally granted or not. If the Supreme Court is of the opinion that the extradition should not be granted the Government is bound by that opinion. Depending on to which country a person is subject to extradition (or surrender), different conditions or grounds for refusal apply. Very few grounds for refusal are applicable on extradition to the Nordic countries. The opposite is the case when it comes to extradition requests to countries outside the European Union. For instance, Swedish nationals can be extradited (or surrendered) to the Nordic countries and within the European Union but not to other countries. The requirement of dual criminality applies in all cases if the request was received from a country outside the Nordic States and the European Union. That requirement is limited if the person is subject to a European Arrest Warrant and not applicable at all if the request comes from a Nordic country (except for Swedish nationals).

53. The provisions on jurisdiction in criminal matters are mainly found in chapter 2 of the Swedish Penal Code.

54. Crimes committed outside Swedish territory shall be adjudged according to Swedish law and by a Swedish court if the crime has been committed (chap. 2, sect. 2):

(a) By a Swedish citizen or an alien domiciled in Sweden;

(b) By an alien not domiciled in Sweden who, after having committed the crime, has become a Swedish citizen or has acquired domicile in Sweden; or who is a Danish, Finnish, Icelandic or Norwegian citizen and is present in Sweden;

(c) By any other alien, who is present in Sweden, and under Swedish law if the crime can result in imprisonment for more than six months.

55. A further required condition is that the act is criminalized in the State where it is committed (double criminality) or, if it is committed within an area not belonging to any State, that the prescribed punishment under Swedish law is more severe than a fine.

56. For the situations mentioned above, it is prescribed that no sanction exceeding the most severe sanction in the other State may be imposed.

57. Thus, Swedish courts have very far-reaching jurisdiction when the alleged perpetrator is present in Sweden. In order to be "present" in Sweden, in the sense of the Penal Code, the person in question has to have come to Sweden on a voluntary basis.

58. There were additional situations where crimes committed outside Swedish territory shall be adjudged according to Swedish law and by a Swedish court. In contrast to the situations referred to above, the law does not impose any requirement of double criminality, for example, in the following situations (chap. 2, sect. 3):

(a) If the crime is hijacking, maritime or aircraft sabotage, airport sabotage, counterfeiting currency, an attempt to commit such crimes, crimes against international law, unlawful dealings with chemical weapons, unlawful dealings with mines, false or careless statement before an international court, terrorist crime according to the law on terrorist crimes or an attempt to commit such a crime;

(b) If the least severe punishment prescribed for the crime in Swedish law is imprisonment for four years or more.

59. The specific crimes for which Sweden has extraterritorial jurisdiction (i.e., jurisdiction based only on the crime itself) are thus mentioned under those provisions of the Penal Code.

60. According to Swedish law, a preliminary investigation shall be initiated by the police or prosecution authority as soon as there is reason to believe that a criminal offence subject to public prosecution has been committed. The main purposes of the investigation are to find out who could be reasonably suspected of having committed the crime and if there were sufficient grounds to prosecute him or her.

61. The Swedish public prosecutor is, as a matter of general principle, obliged to prosecute offences falling within the domain of public prosecution when there was enough evidence to expect the court to find the suspect guilty. There were, however, a few exceptions. Under certain circumstances, the prosecutor may decide to limit

the preliminary investigation or to waive prosecution provided no compelling public or private interest was disregarded.

62. Those general rules apply, on the condition that the Swedish provisions on jurisdiction, as described above, are applicable, irrespective of where the crime has been committed.

63. In conclusion, a prosecutor is always involved in the extradition or surrender procedures and will be informed if a request for extradition or surrender is refused. In such a case, the provisions in the Swedish legislation on jurisdiction and preliminary investigation and prosecution could be applicable in order to fulfil the obligation of the principle of *aut dedere aut judicare*.

Tunisia

64. Tunisian legislation regulates the extradition of foreign criminals under articles 308 to 335 of the Code of Criminal Procedure under the heading "Extradition of Foreign Criminals", which covers the conditions, procedures and effects of extradition without explicitly recognizing the principle of "extradite or prosecute". However, it recognizes the active personality principle in its treatment of the bases of international jurisdiction in criminal matters and in the text of article 305 of the Code, which allows for the prosecution by the Tunisian courts of a Tunisian citizen who has committed a crime or misdemeanour punishable by Tunisian law outside Tunisia. It also recognizes the passive personality principle under article 307 bis of the Code, which grants authority to prosecute anyone who commits, as principal or accessory, a crime or misdemeanour outside Tunisia when the victim is of Tunisian nationality. It also recognizes, under article 307 of the Code, the objective territoriality principle, which grants authority to prosecute a foreigner who commits, as principal or accessory, a crime or misdemeanour outside the soil of the Republic which harms the security of the State, or who engages in counterfeiting the national currency.

65. Therefore, although the Code of Criminal Procedure does not explicitly recognize the principle of extradite or prosecute, the net result of its adoption of such a wide-ranging basis for international jurisdiction is a de facto recognition of that principle.

66. That trend was reinforced by the adoption of the principle of universal jurisdiction in article 55 of act No. 75 of 2003 (10 December 2003) in support of international efforts to combat terrorism and prevent money-laundering. It gives the Tunisian courts jurisdiction over terrorist crimes when they are committed by a Tunisian national, when they are committed against Tunisian parties or interests or when they are committed by a foreigner or stateless person whose habitual place of residence is on Tunisian soil, or by a foreigner or stateless person present on Tunisian soil whose legal extradition the competent foreign authorities did not request prior to the issuance by the competent Tunisian courts of a final judgement against him. Article 60 of the act requires extradition if terrorist crimes are committed outside the Republic, by a person not bearing Tunisian citizenship, against a foreigner, foreign interests or a stateless person, if the perpetrator is present on Tunisian soil.

67. Tunisian legislation follows internationally accepted practice in its application of the principle of not permitting the extradition of Tunisian citizens. On the other hand, the Tunisian State is obligated under the previously noted international

judicial conventions to initiate criminal prosecution in Tunisia against a person whose extradition and prosecution are requested in accordance with the principle of extradite or prosecute.

68. With respect to non-Tunisians, legislation allows the extradition of a person to a foreign State only if that person is being prosecuted for a crime punishable by Tunisian law as a crime or misdemeanour, if the penalty required by the law of the requesting State is that of imprisonment for a period of six months or more for all crimes for which extradition is being requested. In case of trial, the penalty imposed by the court of the requesting State must be imprisonment for two months or more.

69. Extradition can be granted only when the crime for which extradition is being requested was committed on the soil of the requesting State by one of its citizens or by a foreigner, or if it was committed outside such State by one of its citizens or a foreigner if the crime is one of the crimes the prosecution of which is authorized in Tunisia by Tunisian law even when committed abroad by a foreigner.

70. Extradition is not permitted when the crimes were committed in Tunisia or when, despite their having been committed outside Tunisia, the prosecution of the perpetrators has been concluded, the statute of limitations on the public proceedings or the punishment has run out under Tunisian law or the law of the requesting State, the crime is of a political nature, it is clear that the request is for political purposes, or the crime consists of failure to discharge a military obligation.

71. Article 59 of law No. 75 of 2003 (10 December 2003), in support of international efforts to combat terrorism and prevent money-laundering, under no condition allows terrorist crimes to be considered political crimes. Article 56 of the act authorizes the initiation of public proceedings for terrorist crimes independent of the criminality of the acts under prosecution under the law of the State in which the crime was committed.

C. Judicial practice of a State reflecting the application of the obligation *aut dedere aut judicare*

Chile

72. Recent judicial practice in 2006 reflecting the application of the obligation *aut dedere aut judicare*, includes (a) the judgement of first instance dated 7 February 2006 handed down by Alberto Chaigneau del Campo, Examining Magistrate of the Supreme Court, approved by the Supreme Court by decision of 16 March 2006, concerning the request by Argentina for the extradition of Chilean national Rafael Washington Jara Mesías, which rejected the request and stated that the person in question should be tried in Chile for the offence of which he was accused; and (b) the judgement of first instance dated 21 August 2006 handed down by Alberto Chaigneau del Campo, Examining Magistrate of the Supreme Court, approved by the Supreme Court by decision of 6 November 2006, concerning the request by Argentina for the extradition of Chilean national Juan León Lira Tobar, which rejected the request and stated that the person in question should be tried in Chile for the offence of which he was accused.

Ireland

73. It would appear that no Irish judicial practice reflecting the application of the obligation exists.

Lebanon

74. With regard to judicial application of the principle of extradition, the Public Prosecutor at the Court of Cassation is competent to prepare the docket on the extradition of offenders and forward it, together with his report, to the Minister for Justice (art. 17 of the Code of Criminal Procedure).

Mexico

75. There are no jurisprudential criteria relating to extradition in the judicial practice of Mexico which explicitly demonstrate the obligation to extradite or prosecute.

Slovenia

76. One of the fundamental principles of Slovenian criminal procedure is the principle of legality, which determines that the prosecutor is bound to institute criminal prosecution if there is reasonable suspicion that a criminal offence liable to prosecution ex officio has been committed. Accordingly, Slovenian law enforcement authorities must prosecute Slovenian citizens or persons having permanent residence in Slovenia for a criminal offence committed abroad, if extradition was declined. They must also prosecute foreign citizens who have, in a foreign country, committed a criminal offence against that country or any of its citizens and have been apprehended in Slovenia and have not been extradited to a foreign country. But it should be pointed out that Slovenia generally grants extradition of aliens, if all legal conditions are fulfilled. Upon the request of a foreign country, Slovenia can also prosecute Slovenian or foreign citizens for a criminal offence committed abroad. The request for prosecution must be transmitted, together with the files, to the competent prosecutor in whose territory that person has permanent residence. Refusal to prosecute can only be based on the same grounds as for an offence perpetrated in Slovenia. Jurisdiction in Slovenia for institution of criminal proceedings lies in the hands of the district prosecutors (in Slovenia there are 11 offices of district prosecutors). There are no special centralized records or gathering of information with regard to individual cases where prosecutors initiated criminal proceedings or took over prosecution from a foreign country as a consequence of application of the principle *aut dedere aut judicare*; therefore Slovenia did not provide the numerical data with regard to the application of the principle in practice.

D. Crimes or offences to which the principle of the obligation *aut dedere aut judicare* is applied in the legislation or practice of a State

Chile

77. It should be noted that there are no limitations in national legislation and practice that would prevent its application to certain crimes or offences.

Ireland

78. In its reply, Ireland made a cross-reference to information contained in the present report (see paras. 24-27).

Mexico

79. In Mexico, individuals who commit a federal crime can be extradited. According to article 50, paragraph I (a), of the Judicial Authority Organization Act, crimes provided for in international treaties are federal crimes and such crimes are heard by federal criminal judges. Such crimes are therefore duly incorporated into Mexico's criminal system. Paragraph II of the same article establishes that federal criminal judges also hear extradition requests. The article in question reads as follows:

> Article 50. Federal criminal judges shall hear the following:
>
> *I. Federal crimes*
>
> The following crimes constitute federal crimes:
>
> (a) Those provided for in federal laws and international treaties;
>
> (b) Those mentioned in articles 2 to 5 of the Penal Code for the Federal District for ordinary crimes and for the whole Republic for federal crimes;
>
> (c) Those committed abroad by diplomatic agents, official staff of legations of the Republic and Mexican consuls;
>
> (d) Those committed in foreign embassies and legations;
>
> (e) Those in which the Federation is a passive subject;
>
> (f) Those committed by a public servant or federal employee, during or in connection with the exercise of their functions;
>
> (g) Those committed against a public servant or federal employee, during or in connection with the exercise of their functions;
>
> (h) Those committed on the occasion of the operation of a federal public service, even when that service has been decentralized or contracted out;
>
> (i) Those committed against the operation of a federal public service or against the property provided for carrying out that service, even when that service has been decentralized or contracted out;
>
> (j) All those which attack, hinder or prevent the exercise of any specific power or authority of the Federation;
>
> (k) Those mentioned in article 389 of the Penal Code, in the event that a contract is promised or awarded to an office, decentralized body or State-owned company of the Federal Government;
>
> (l) Those committed by or against federal electoral officials or party officials under the terms of article 401, paragraph II, of the Penal Code.

II. Extradition proceedings, notwithstanding the provisions of international treaties

III. Requests for authorization to intercept private communications

Slovenia

80. The principle *aut dedere aut judicare* applies to all crimes proscribed in the Penal Code of Slovenia, including crimes which derive from international humanitarian law and international treaties referred to above (see paras. 13-15): genocide; crimes against the civilian population; crimes against the wounded and sick; war crimes against prisoners of war; war crimes of use of unlawful weapons; unlawful slaughtering and wounding of the enemy; maltreatment of the sick and wounded and of prisoners of war; abuse of international symbols; trafficking in persons; international terrorism; endangering persons under international protection; taking of hostages; unlawful manufacture and trade with narcotic drugs; enabling opportunity for consumption of narcotic drugs and others.